

**Remarks**

Claims 2-46, 48-54, 56-93 and 95-101 remain pending, as claims 1, 47, 55 and 94 were canceled in a previous response. Claims 46, 53, 80, 82 and 98 are currently amended. The Assignee respectfully requests allowance of claims 2-46, 48-54, 56-93 and 95-101.

**Response to Comment in the Advisory Action Concerning the Status of Claims 1, 47, 55 and 94**

Comments within the detailed action of the advisory action indicate that the status of claims 1, 47, 55 and 94 is unclear. (Page 2 of the advisory action.) The subject matter of former independent claims 1, 47, 55 and 94 was incorporated into claims 23, 52, 71 and 99, respectively. The dependent claims depending from former claims 1, 47, 55 and 94 were amended accordingly. Thus, the independent claims of the present application now include claims 23, 27, 52, 71, 78 and 99.

**Current Claim Amendments**

Claim 46 is amended to specify that the system configured to modulate the second signal is an overlay system.

Claim 53 is amended to include the term "further."

Claim 80 is amended to correct the dependence of that claim from claim 78 to claim 79 to provide proper antecedent basis for claim 80.

Claim 82 is amended to include the phrase "further comprising."

Claim 98 is amended to replace the reference to "the incumbent signal portion" with "the overlay signal portion."

As these amendments are each of a grammatical or typographical nature, no surrender of subject matter or scope of the amended claims is intended.

**Provisional Double Patenting Rejection**

Claims 1-101 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-101 of copending U.S. Patent Application No. 10/077,149. In response, a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) covering the claims of the present application is submitted herewith. As a result,

the Assignee respectfully requests withdrawal of the double patenting rejection.

Claim Rejection Under 35 U.S.C. § 102

Claims 1, 3-12, 17-19, 22, 47, 51, 55-64, 68-70, 73, 94 and 98 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,285,669 to Gutierrez (hereinafter "Gutierrez"). The Assignee traverses the rejection in light of the foregoing discussion.

The final Office action indicates that claims 23, 52, 71 and 99, among others, were "objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and overcome the Double Patenting Rejection." (Page 7 of the final Office action.) In the response to the final Office action, claims 23, 52, 71 and 99 were rewritten to incorporate the provisions of their independent claims, as noted above. Also, the double patenting rejection has been obviated by way of a terminal disclaimer, as mentioned earlier. Thus, the Assignee contends that claims 23, 52, 71 and 99 are allowable, and such indication is respectfully requested.

Also, since claims 3-12, 17-19 and 22 depend from independent claim 23, claim 51 depends from independent claim 52, claims 56-64, 68-70 and 73 depend from independent claim 71, and claim 98 depends from independent claim 99, they incorporate the provisions of their respective independent claims. Thus, the Assignee asserts that claims 3-12, 17-19, 22, 51, 56-64, 68-70, 73 and 98 are allowable for at least the reasons provided above for claims 23, 52, 71 and 99, and such indication is respectfully requested.

Claims 1, 47, 55 and 94 are canceled. Thus, the anticipation rejection as it pertains to these claims is rendered moot.

In light of the foregoing, the Assignee respectfully requests that the 35 U.S.C. § 102 rejection of claims 1, 3-12, 17-19, 22, 47, 51, 55-64, 68-70, 73, 94 and 98 be withdrawn.

Claim Rejection Under 35 U.S.C. § 103

Claims 2, 49, 56, 66 and 96 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gutierrez in view of U.S. Patent No. 6,778,517 to Lou et al. The Assignee respectfully traverses the rejection on the basis of the foregoing discussion.

More specifically, claim 2 depends from independent claim 23, claim 49 depends from

independent claim 52, claims 56 and 66 depend from independent claim 71, and claim 96 depends from independent claim 99. Thus, claims 2, 49, 56, 66 and 96 incorporate the provisions of their respective independent claims. Hence, the Assignee asserts that claims 2, 49, 56, 66 and 96 are allowable for at least the reasons set forth above with respect to claims 23, 52, 71 and 99, and such indication is respectfully requested. Therefore, the Assignee respectfully requests withdrawal of the 35 U.S.C. § 103 rejection of claims 2, 49, 56, 66 and 96.

#### Allowable Subject Matter

The final Office action indicates that claims 27-46 and 78-93 are allowed. The Assignee thanks the Examiner for his consideration of these claims.

Also, the Office action states that claims 13-16, 20, 21, 23-26, 48-50, 52-54, 65, 67, 71, 72, 74-77, 95, 97 and 99-101 stand "objected to as being dependent upon a rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and overcome the Double Patenting Rejection." (Page 7 of the final Office action.) As noted above, claims 23, 52, 71 and 99 have been amended to incorporate the provisions of their associated independent claims, and are now independent claims. Further, claims 13-16, 20, 21, and 24-26 depend from independent claim 23, claims 48-50, 53 and 54 depend from independent claim 52, claims 65, 67, 72 and 74-77 depend from independent claim 71, and claims 95, 97, 100 and 101 depend from independent claim 99, and thus incorporate the limitations of their respective independent claims. Thus, the Assignee respectfully contends that claims 13-16, 20, 21, 23-26, 48-50, 52-54, 65, 67, 71, 72, 74-77, 95, 97 and 99-101 are now in proper form for allowance, and such indication is respectfully requested.

#### Conclusion

The prior art made of record and not relied upon (i.e., U.S. Patent Application Publication No. 2003/0185163 to Bertonis et al.) has been reviewed and is not considered to teach or suggest the subject matter of the claims of the present application.

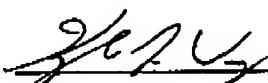
Based on the above remarks, the Assignee submits that claims 2-46, 48-54, 56-93 and 95-101 are allowable. Additional reasons in support of patentability may exist, but such reasons are omitted in the interests of clarity and brevity. The Assignee thus respectfully requests allowance

of claims 2-46, 48-54, 56-93 and 95-101.

The Office is hereby authorized to charge Deposit Account No. 21-0765 the requisite fees under 37 C.F.R. § 1.17(e) and 37 C.F.R. § 1.20(d) for the request for continued examination and the terminal disclaimer, respectively, which are filed herewith. The Assignee believes no additional fees are due with respect to this filing. However, should the Office determine additional fees are necessary, the Office is hereby authorized to charge Deposit Account No. 21-0765.

Respectfully submitted,

Date: 10/16/05



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**SIGNATURE OF PRACTITIONER**

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